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Great Britain Tariff Commission.

Memorandum on the new German commercial...

[London]

[1905]

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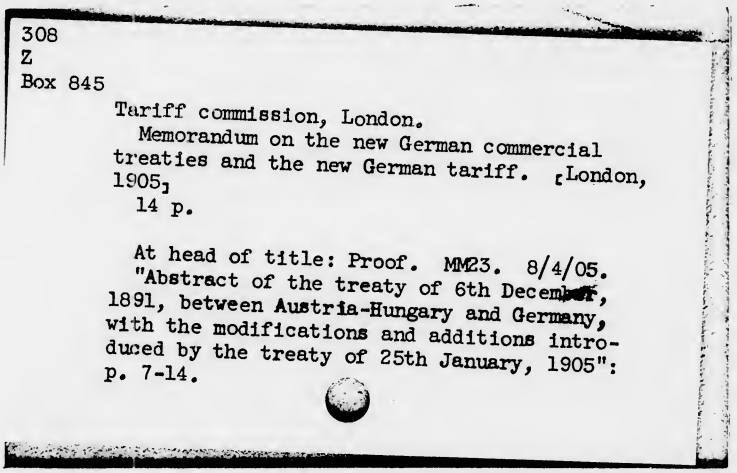

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Tariff commission, London.
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THE TARIFF COMMISSION.

Memorandum on the New German Commercial Treaties and the New German Tariff.

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I.—Divisions of the German Tariff.

The German Tariff System, as arranged under the Customs Law of December 25th, 1902, is as follows:—

(i.) Section 10 of the above Customs Law provides that:—

Penalty Tariff.

"Dutiable goods proceeding from States that treat German ships or products less favourably than those of other nations may, without prejudice to the tariff duties, be burdened with a surtax ranging up to 100 per cent. of the tariff duty imposed on such goods or even with a surtax equivalent to the total value of the goods themselves. Goods free of duty in virtue of the tariff may, under the same conditions, be taxed with a duty not exceeding 50 per cent. *ad valorem*.

"In like manner and save conventional stipulations to the contrary, foreign goods may be subjected to the same duties and customs formalities as are applied to German goods in the country of origin.

"The measures provided for in this section shall be enforced by Imperial ordinance with the assent of the Federal Council."

General Tariff.

(ii.) The general tariff, consisting of relatively high rates of duty. The new general tariff having been adopted by the Reichstag, the German Government proceeded to negotiate with the principal countries of Central Europe with a view to securing mutual advantages.

Conventional Tariff.

(iii.) The result of these negotiations was that certain rates of duty of the general tariff were modified by convention, and, by the operation of the most-favoured-nation clause included in each of the commercial treaties of the Central European powers, were generalised. The new conventional tariff of Germany was thus arranged.

Germany's Most-Favoured-Nation Treaties.

In addition to the commercial treaties with the Central European powers, Germany has at present 28 most-favoured-nation treaties as well as most-favoured-nation agreements with other countries; hence in practice the conventional tariff is extended to almost every other country, and the general tariff becomes a penalty tariff. In the event of hostile action by other countries against German commerce or less favourable treatment within the meaning of Section 10 of the Customs Law quoted above, the German Government could also surtax the products of other countries up to the full value of the goods themselves.

The Customs Law of 1902, the new tariffs and the commercial treaties will come into operation in the spring of 1906.

II.—The Regulation of our Commercial Relations with Germany.

Treaty of 1865.

Our commercial relations with Germany were defined by "the treaty of commerce between her Majesty and the States of the Zollverein," of May 30th, 1865; and by various declarations such as the declaration of the accession of Mecklenburg Schwerin to the treaty of navigation between Great Britain and Prussia on January 9th, 1869; and the Declaration of April 1st, 1869, for the admission, duty free, into Great Britain and the Zollverein of patterns and samples imported by commercial travellers.

Article 7 of the treaty of 1865 provided as follows:—

Position of British Colonies.

"The stipulations of the preceding Articles I. to VI. shall also be applied to the colonies and foreign possessions of Her Britannic Majesty. In these Colonies and Possessions the produce of the States of the Zollverein shall not be subject to any higher or any other import duties than the produce of the United Kingdom of Great Britain and Ireland or of any other country, or of

the like kind; nor shall the exportations from these Colonies or Possessions to the States of the Zollverein be subject to any higher or other duties than the exportations to the United Kingdom of Great Britain and Ireland."

Lord Salisbury's Denunciation of the Treaties.

An article of similar import had been included in the treaty between the United Kingdom and Belgium in 1862.

As these stipulations prevented the adoption by Canada of a preferential tariff in favour of the Mother Country, both treaties were denounced by Lord Salisbury in the year 1897. In denouncing these treaties, Lord Salisbury stated:—

> "Stipulations to this effect are entirely unusual in commercial treaties. No record exists in the archives of this Department of the circumstances under which this Article was adopted, or of the reasons which induced her Majesty's Government at the time to enter into an engagement of such a nature; and it would appear probable that the insertion of these words must have been due to oversight or to a want of adequate consideration of the exact consequences which would flow from them. The German Government are aware that for many years past the British self-governing Colonies have enjoyed complete tariff autonomy, and that in all recent commercial treaties concluded by Great Britain it has been customary to insert an Article empowering the self-governing Colonies to adhere, or not, at will. No such Article is contained in the Treaty of 1865 between Great Britain and the Zollverein, and the consequence is that certain of the British Colonies, which are all comprised within its operation, find themselves committed by treaty to a commercial policy which is not in accordance with the views of the responsible Colonial Ministers, nor adequate to the requirements of the people. Beyond this, the provisions of Article VII. of the Treaty of 1865, quoted above, constitute a barrier against the internal fiscal arrangements of the British Empire, which is inconsistent with the close ties of commercial intercourse which subsist and should be consolidated between the Mother Country and the Colonies. Under these circumstances, her Majesty's Government find themselves compelled to terminate a treaty which is no longer compatible with the general interests of the British Empire."

Lord Salisbury went on to say that the Government was anxious at once to commence negotiations for the conclusion of a new treaty from which the stipulations of Article VII. should be omitted, and which, whilst containing a clause providing for the facultative adhesion of the British self-governing Colonies, should in other respects be similar to the treaty of 1865.

The Present Arrangement.

No such treaty, however, has so far been concluded, and since 1897, the commercial relations between this country and Germany have been regulated by an Imperial Ordinance, with the assent of the Federal Council, granting most-favoured-nation treatment. This arrangement is purely temporary, is passed from year to year and may be suspended. It was entered into in view of the fact that during all this period the preparation of the new general tariff of Germany and, later, negotiations in connection with the commercial treaties with the Central European Powers were in progress. If this arrangement is continued or a most-favoured-nation treaty* concluded, British products will be subject to the rates of the conventional tariff. If, however, the arrangement were terminated and no treaty took its place, British products would be subject to the general tariff.

In forming an opinion as to the effect upon British trade of the new tariff it is of the greatest importance to take account not only of the rates of duty but of the general provisions of the treaties—classification of the tariff, the stipulations included in the tariff schedules, and the operation of most-favoured-nation treatment.

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* The Marquis of Lansdowne, Secretary of State for Foreign Affairs, speaking in the House of Lords, on February 19th, 1904, said:—

> "We are frequently told that what is called the most-favoured-nation treatment is sufficient protection for us against these dangers. My noble friend, Lord Selborne, very properly pointed out that the most-favoured-nation treatment has ceased to be a protection against hostile tariffs, and the reason is not far to seek. In these days the tendency is towards very minute classification of tariffs with the result that when two Powers wish to make a commercial agreement between themselves, excluding from its advantages a third Power entitled to most-favoured-nation treatment, they can easily do so by a process known to experts as jerrymandering the tariff. The thing has, in fact, been constantly done to our disadvantage.
>
> "In 1892 the central Powers of Europe revised their commercial treaties, and, although we had at that moment an export trade to Germany of no less than 675,000,000 marks, only 2·6 per cent. of that large trade obtained any relief under the most-favoured nation treatment to which we are entitled. Of course, besides that there are other devices, such as preferential railway rates, frontier dues, and in certain cases interpretations of the most-favoured-nation clause which had the effect of whittling away its meaning and importance."—*Parliamentary Debates, House of Lords, February 19th*, 1904, *4th Series, Vol.* 130, *page* 433.

The remark of Lord Selborne, made in a speech in the House of Lords, on Thursday, February 18th, 1904, to which Lord Lansdowne refers in the foregoing extract, was as follows:—

> "When Continental nations made their commercial treaties the last country they thought of was the United Kingdom. The extreme subdivision and classification of manufactured goods which prevailed throughout the Continent made it perfectly possible, while this country was given the advantage of the most-favoured-nation clause, for a country to make a treaty which was only of advantage to the countries that were parties to that special treaty."—*Times, February 19th*, 1904.

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III.—The Provisions of the Treaties.

The actual tariff schedules form only a part of the provisions of the new commercial treaties. It is impossible here to give a *verbatim* translation of their numerous and complicated clauses, but an abstract of the treaty between Germany and Austria-Hungary is appended to this memorandum. The following general illustrations show the great importance of the treaties as a whole:—

The Settled Policy of Foreign States.

(i.) The treaties are in form and substance those of the period 1891—1894, renewed for a further term of 12 years, with important additions and modifications. They therefore may be said to represent the settled policy of the countries concerned.

Most-Favoured-Nation Clause.

(ii.) All the treaties include a most-favoured-nation clause.

Arbitration.

(iii.) All the treaties include a provision for arbitration. The following clause from the Italian treaty is generally similar to those of the other treaties:—

> "Should any dispute arise between the contracting Powers respecting the interpretation or application of the annexed tariffs, or in connection with the conventional tariffs arranged between either of the Powers and a third Power, the matter shall be referred to arbitration, one arbitrator to be selected by each party from among its own subjects, and an umpire chosen by both parties from the subjects of a third, friendly State. The umpire may be chosen in advance and appointed for a definite term. Other points in dispute respecting the interpretation of the present treaty may also be submitted to arbitration in the same way."

Transport Rates.

(iv.) All the treaties contain important regulations with regard to transport by land and water, and most of them provisions with regard to shipping and railway rates. The following clauses may be given by way of illustration:

From the treaty with Italy:—

> "No distinction shall be made, in either country, between the inhabitants, in respect of the railway rates or in the time or method of despatching by rail. No increased rate shall be charged in Germany on goods sent from Italy for conveyance to German stations or transit through the country in comparison with the rates charged on German or foreign goods on the same section of railway. The same shall apply to the conveyance of German goods in Italy. The only exceptions to this rule are when reduced rates of transport are granted for public or benevolent purposes."

From the treaty with Austria-Hungary:—

> "No discrimination in point of freight rates or despatching shall be made by the railways of either Power against the goods of the other conveyed in transit or otherwise. The two Powers will do their best to facilitate commercial intercourse by providing direct rail connection between adjoining railway systems and arranging for the transfer of rolling stock from one line to the other. They will render mutual assistance in matters of railway traffic, especially in the granting of through rates on passengers and goods as circumstances require."

There are in this treaty many other regulations relating to the arrangement of uniform conditions of conveyance, connecting services, and the like.

From the treaty with Russia:—

> "Each Power reserves the right of fixing its own railway rates of freight; but no discrimination shall be made by either against the goods of the other in respect of freight or forwarding. Goods of either Power entering the other country for destination there or transit shall not be charged higher rates than similar goods of home or foreign make conveyed on the same line and in the same direction. The only exceptions are goods conveyed at reduced rates for public or charitable purposes. Reciprocal facilities shall be given as regards railway rates, especially in the framing of through rates, more particularly to and fro between Russia and Danzig (and other German ports mentioned), to facilitate the Russian import and export trade."

Other Provisions.

(v.) All the treaties contain also important provisions in regard to commercial travellers and their patterns, rights of property, industrial companies, State and local dues of all kinds, coasting trade, frontier traffic, and warehousing and Custom House regulations. In regard to these Custom House regulations it should be pointed out that a very large number of the advantages conferred are necessarily confined to the subjects of the contracting Powers because they apply to particular Custom Houses on the frontiers of these Powers. In the case of the Italian treaty it is stipulated that negotiations shall be opened to assimilate the conditions of employment in Italy and Germany, especially in regard to workmen's insurance. In certain of the treaties it is also provided that the citizens of each country shall be exempted from compulsory military and official service in the other.

IV.—Points to be kept in view in Considering the Effects of the New Tariff.

In view of what has been said above, it is of the greatest importance that merchants and manufacturers should consider with great care the following points in forming an opinion as to the effect upon British trade of the new tariff:—

(i.) *The Tariff Classification.*

Tariff Classification.

The classification of the German tariff has, in many instances, been completely revolutionised. Amongst the drastic changes which have been introduced should be noted especially those which affect iron and steel, machinery and the textile industries. In this connection it should be considered how far the classification adopted by the German Government works out to the advantage or detriment of this country by causing lower or higher rates of duty, as the case may be, to fall upon British products.

(ii.) *The Actual Rates of Duty.*

Rates of Duty.

Both the conventional tariff and the general tariff should be considered with a view to the determination of how far British commerce is benefited or not through most-favoured-nation treatment. It will be found on examination that a very large number of the rates of the general tariff, in which this country is interested, have not been modified by the conventions.

(iii.) *Tariff Stipulations in the Treaties.*

Tariff Stipulations.

The stipulations with regard to the various commodities which are included in the treaties should be considered in their application to the products of this country with a view to determining how far the rates of the conventional tariff would, or would not, apply in the event of the application of these stipulations.

(iv.) *Effect of the Non-Tariff Provisions of the Treaties.*

Effect of the Non-Tariff Provisions.

It is of the greatest importance to consider to what extent any tariff concessions to which the United Kingdom may be entitled under the conventional tariff are modified by the relation of other clauses of the new treaties to which attention has been drawn above.

V.—Expansion of Trade under the Treaties.

Trade under the Treaties.

The importance of the treaties as a whole, including the tariff concessions, in stimulating the trade of Germany with the Central European Powers may be gauged from the following tabular statement based upon the returns of these countries published in the official edition of the German treaties:—

Imports for Home Consumption into the Undermentioned Countries,* from Germany and United Kingdom respectively.

	From Germany.		From United Kingdom.	
	1892.	1902.	1892.	1902.
	£	£	£	£
Italy	5,800,000	8,900,000	9,800,000	11,500,000
Belgium	7,200,000†	13,200,000	7,900,000†	11,400,000
Russia	14,300,000‡	20,800,000	13,300,000‡	9,900,000
Roumania	4,600,000†	3,200,000	3,400,000†	2,300,000
Switzerland ..	9,500,000	14,200,000	1,800,000	2,300,000
Servia	200,000	300,000	200,000	200,000
Austria-Hungary ..	19,400,000	27,100,000	5,300,000	6,000,000
	61,000,000	87,700,000	41,700,000	43,600,000

* Except Austria-Hungary, where the figures include the "improvement trade."
† For 1893.
‡ For 1894.

VI.—Proportion of Goods Affected by the Conventional Tariffs.

1.—Italy.

Italian Trade Affected.

In 1902 the value, according to official Italian figures, of Italian imports from Germany amounted to 246 million lire. Of this total 134 million lire is separately identified in the German official returns, and an analysis of this 134 million lire shows that 48 per cent is imported under the "General" Tariff, and 52 per cent. under the "Conventional" Tariff.

2.—Austria-Hungary.

Austrian Trade Affected.

Similarly with regard to German trade with Austria-Hungary, trade of the value of 397 million kronen is identified in the German official returns out of a total of Austro-Hungarian imports from Germany of 651 million kronen. An analysis of this 397 million kronen shows that 38 per cent. comes under the "General" Tariff, and 62 per cent. under the "Conventional" Tariff.

That is to say, probably more than half the total Italian imports from Germany, and five-eighths of the Austro-Hungarian imports from Germany receive the benefit of most-favoured-nation treatment.

VII.—Examples of Changes of Duties in the German Tariff.

Examples of Changes.

The selection of the items for a fair comparison of the new duties with the old is extremely difficult owing to the complicated character of the new classifications and the introduction of a great variety of regulations. The following instances are merely illustrative and must not, for reasons explained in this memorandum, be regarded as representative of anything like the full extent of the changes:—

Iron and Steel and Machinery.

Iron and Steel and Machinery.

The classification of "Iron and Iron Alloys and Wares thereof" has been entirely recast and so elaborated as to cover twelve pages of the British Blue-book, as against four only occupied by the old duties. A general comparison is impossible within reasonable limits of space, but a few specific illustrations may be given:—

	Old Duties.	New General Duties.	New Conventional Duties.
Blooms (shillings per ton)	15 ..	15 ..	15
Files (shillings per cwt.)	7½ ..	5 to 20 ..	5 to 14
Knives, Scissors, &c. (shillings per cwt.)	7½ to 12 ..	7½ to 10 ..	7½ to 10
Machinery (shillings per ton) ..	30 to 80 ..	35 to 1000 ..	35 to 750

Cotton Yarn (Shillings per cwt).

Cotton Yarn.

Single-unbleached.	Old Duties.	New General Duties.	New Conventional Duties.
Up to No. 11 ..	6 ..	3 ..	3
Nos. 12 to 17 ..	6 ..	4 ..	4
„ 18 to 22 ..	9 ..	5½ ..	5½
„ 23 to 32 ..	9 ..	7 ..	7
„ 33 to 45 ..	9 } ..	9 ..	9
„ 46 to 47 ..	12 }		
„ 48 to 63 ..	12 ..	11 ..	11
„ 64 to 83 ..	12 ..	14 ..	12½
„ 84 to 102 ..	12 ..	17 ..	14
„ 103 and upwards	12 ..	20 ..	20

COTTON FABRICS (SHILLINGS PER CWT.)

Cotton Fabrics.	Old Duties.	New General Duties.	New Conventional Duties.
Velvet and plush and similar tissues with uncut pile, unbleached ..	40	30	30
Do., do., bleached, dyed, &c. ..	60	40	40
Do., cut with pile made from the weft, unbleached	60	45	45
Do. do., bleached dyed, &c. ..	60	60	60
Do. with pile made from the warp, unbleached	60	60	60
Do., do., bleached, dyed, &c. ..	60	75	65
Various tissues defined by weight and number of threads	40	25 to 85	25 to 75

HOSIERY (SHILLINGS PER CWT.)

Hosiery.	Old Duties.	New General Duties.	New Conventional Duties.
Knitted gloves	47½	80	80
Knitted underclothing	47½	40 to 60	40
Stockings and socks, cut	47½	40	40
Do., shaped	47½	60	60

SILKS (SHILLINGS PER CWT.)

Silks.	Old Duties.	New General Duties.	New Conventional Duties.
Close-woven tissues for upholstery and tapestry work, in the piece ..	300	450	450
Do., do., finished off as curtains, coverlets, &c.	300	600	600
Silk velvets and plushes, wholly of silk	300	400	375
Do., do., partly of silk	225	225	225
Silk hosiery, wholly of silk	300	400	250
Do., partly of silk	225	275	200

WOOLLENS AND WORSTEDS (SHILLINGS PER CWT.)

Woollens and Worsteds.	Old Duties.	New General Duties.	New Conventional Duties.
Tissues of wool or yarn weighing from 7 to 24 oz. per sq. yard	67½	—	75

On various miscellaneous woollen and worsted wares, the increases are from 15 to 30 per cent.

EARTHENWARE (SHILLINGS PER TON.)

Earthenware.	Old Duties.	New General Duties.	New Conventional Duties.
Roofing tiles of unglazed clay	free	3 to 5	3 to 5
Do., glazed	7½	10	10
Pottery for domestic and industrial purposes	10	15	10

GLASS AND GLASS WARE.

Glass and Glass Ware.	Old Duties.	New General Duties.	New Conventional Duties.
Plate glass	30	40	30
Glass, painted gilt or silvered ..	200	300	300

ABSTRACT OF THE TREATY OF 6TH DECEMBER, 1891, BETWEEN AUSTRIA-HUNGARY AND GERMANY, WITH THE MODIFICATIONS AND ADDITIONS INTRODUCED BY THE TREATY OF 25TH JANUARY, 1905.

The clauses as originally signed in 1891 are printed in ordinary type. New clauses and modifications of clauses as adopted in the 1905 treaty are printed in italics. Attached to each article is the extract from the Final Protocol relating to that article. It should be understood that this abstract is not a literal translation, but aims at giving the substance of the provisions.

ARTICLE 1.

Restrictions and Prohibitions.

The contracting powers engage not to restrict mutual commercial intercourse by any prohibition of importation, exportation or transit, except:—(A) Tobacco, salt, gunpowder, and other explosives, or articles of State Monopoly; (B)) For hygienic reasons; (C) War materials in exceptional circumstances.

FROM FINAL PROTOCOL *re* ARTICLE 1.

Carriage of Salt: Regulations.

1. The following conditions are laid down for the conveyance of German salt down the Danube in transit through Austria-Hungary:—(A) The consignments can be cleared by declaration at the import station, but the right of inspection is reserved, and if any suspicion is harboured, or the seals affixed by the German salt-tax officials are found damaged, the consignment may be reweighed. (B) The period allowed for transit down the Danube shall include in every case sufficient margin for the actual state of the river as regards depth of water. Any accidental delay, if immediately announced at the nearest official station, shall be dealt with in a liberal spirit. (C) The amount of duty on each consignment shall be deposited in cash or good securities. The right of according credit in place of a deposit is vested in the Ministry of Finance on either side, and application must be made every time this favour is desired. (D) The deposit will be returned on the receipt of official certificate that the consignment has entered the foreign State for which it was destined. For salt passing out *via* Orsova, a certificate of its passage without reserve is sufficient. The certificates will be presented by the issuing station to the Hungarian Ministry of Finance, which will arrange with the Austrian Treasury for the return of the deposit.

Carriage of Saline Products.

2. The transit of saline products from Kreuznach and Stassfurthy through Austria-Hungary, without previously-acquired permission, is allowed exceptionally under the following conditions:—(A) Each consignment must be visé and fastened by the local salt-tax officials and dispatched with waybill. (B) On reaching the Austrian frontier, release for transit shall be accorded without delay if the fastenings are found undamaged and the papers are in order. (C) At the outgoing Austrian or Hungarian Customs station, the consignment is allowed to pass if the fastenings are intact, and the needful is done at once for the return of the deposit. (D) These facilities are not granted on Stassfurt salt transhipped in Austria-Hungary.

Carriage of Munitions of War.

2A. *The transit of weapons, ammunition and explosives generally, as well of as articles the subject of a monopoly in the transit State, shall be retarded as little as possible. Where any special permission is required for such transit, the official answer, whether favourable or otherwise, shall be given as soon as possible. When ammunition and explosives are presented for transit conveyance, only the first consignment shall, as a rule, be sampled and tested. Repetitions of these operations are only to occur in case of serious necessity and when the consignments are unaccompanied by proper certificates from the competent officials in the country of origin, stating the nature of the goods, these certificates must be presented with the application for permission to forward. The said competent officials, and the regulations to be observed in issuing the certificates, shall be appointed by agreement between the two powers. The country through which the goods are sent in transit is empowered to take samples as thought necessary, without, however, delaying the consignment. In case these facilities are abused, suitable restrictions may be imposed.*

Agricultural Diseases.

3. The reservation in Article 1 (B) also extends to precautions for protecting agriculture against the introduction of injurious insects, *e.g.*, the phylloxera and Colorado beetle.

4. *All prohibitions or restrictions as to importation, exportation or transit imposed by either power against the other shall be reciprocally communicated.*

5. *The two powers will come to an agreement respecting the mutual recognition of the proof marks on firearms.*

Hall Marking of Plate.

6. *Wares of precious metals, intended merely as travellers' samples for show, and admitted on security being deposited for the duty, may be exempted from compulsory hall-marking, on special request, if a corresponding security be lodged, this being forfeited if the goods are not re-exported within the prescribed period.*

7. *The existing concessions in the customs handling of goods passing through Austrian territory to or from the Bavarian community of Balderschwang, and the rest of Bavaria, shall be retained.*

Classification of Tokay Wines.

8. *The natural wines produced in Tokay and the Tokay wine district, are not to be classed with foreign dessert wines in the sense of the German Law of May 24th,* 1901 (*Reichs-Gesettzbl.* 1901, *p.* 175), *and are therefore not subject to the conditions of S.* 2 *of the said Law* (*permission to add more than* 1 *per cent. alcohol by vol. for improving the keeping quality*). *At the same time, under further provisions of this Law, the manufacture and sale of wines, bearing the names of such as are produced in the Tokay district, but made of dried fruits, or extracts, or inspissated must, is forbidden in Germany.* (*A list is given of the villages, &c., included in the Tokay wine district.*)

ARTICLE 2.

Most-Favoured-Nation Clause.

No more favourable conditions in respect of import, export or transit duties shall be granted by either party to a third power than are accorded to the other party; and any concessions of this kind made to a third power shall at once be applied to the other. Exceptions are:—

(A) Concessions granted by either power to a neighbouring State, to facilitate traffic in certain frontier districts and for the inhabitants of certain parts of the realm.

(B) Any concessions granted by either power in consequence of a Customs Union.

FROM FINAL PROTOCOL *re* ARTICLE 2.

Barley.

1. *On the export of barley or barley malt from the interior of Germany, import certificates are granted solely on the condition that the goods are charged at the lowest rate of duty actually prevailing for particular classes of barley.*

Rags, etc.

2. *The Austro-Hungarian export duty on rags and other waste paper making, shall not exceed* 9.60 *kronen per* 100 *kilos.* (4*s. per cwt.*).

Sugar Convention.

3. *The conditions of the present treaty shall not hinder either power in fulfilling the duties imposed on it by the Brussels Convention of March 5th,* 1902, *with regard to the laws on sugar.*

ARTICLE 3.

Tariffs.

The Austrian products specified in the annexed tariff A, and the German products in tariff B, shall not, when imported into the corresponding other country, be charged other or higher duties than those mentioned in these tariffs.

Excise.

Should either power lay any new or increased internal impost on any goods mentioned in the tariffs, a corresponding addition can be made to the tariff rates on such goods.

FROM FINAL PROTOCOL *re* ARTICLE 3.

Improvement Trade.

1. *Goods of foreign origin admitted under favourable tariff conditions into either country for improvement, and improved there, shall be considered as products of that country for customs purposes.*

In admitting articles of great economic importance to the exporting country to the concessions granted in the new tariff, certificates of origin shall not be demanded unless rendered necessary by urgent considerations of commercial policy.

Differential Duties.

2. No existing differential duties favouring importation by sea shall be increased, or new ones imposed, by either power without the consent of the other. Nevertheless, in all cases where sea-borne goods are favoured by either power when the present treaty comes into operation, the other shall have the right to confer the same concessions on the same imports by sea into its own territory.

Tariff Regulations.

3. Re *Tariffs A and B* (*import duties in both countries*). (a) *The general German tariff mentioned in the annexed tariff A, is the tariff of Decemer 25th,* 1902; *and the Austria-Hungarian general tariff mentioned in tariff B is the projected new tariff for that country.*

(b) *Where goods are rated on a fundamental rate,* plus *additional rates, the said fundamental rate shall be the lowest leviable on the goods of the exporting country, unless exceptions are specially stated in the tariffs. Similarly, any postponed duty on an article specified in the conventional tariffs, shall be calculated on the lowest scale, provided this course is in conformity with any agreement relating to the duty in question. This rule is not abrogated by insertion of the words, "of the general tariff," against any article, section or class in the conventional tariffs.*

(c) *Hops in closed airtight metal cylinders may be passed without inspection when accompanied by a proper official certificate stating the nature of the contents, and that the package has been officially sealed or that the whole consignment is placed in a closed truck, sealed by the customs.*

(d) *Properly identified bottles, jars, and similar vessels returning empty after having served to export mineral waters, may be readmitted duty free.*

(e) *In the case of buttons made of horn or bone, vegetable ivory, areca nut or the like, only the cards or paper on which the buttons are fixed, and not the boxes* (*even with an affixed sample button*) *in which they are packed, shall be considered as part of the dutifiable nett weight of the goods.*

(f) Re *No.* 107 *of tariff A. In clearing consignments of live fowls and other birds* (*geese excepted*), *forwarded in railway trucks unpacked, the dutiable nett weight of the consignment shall be ascertained by weighing the truck on the weighbridge, and deducting the actual tare of the truck* (*including coops if any*). *Where the fowls, &c., are packed in cages or coops, four-fifths of the gross weight shall be considered as the true nett weight for duty.*

ARTICLE 4.

Goods sent from either country in transit through the other shall be exempt from any transit dues, even though they have to be transhipped or stored *en route*. **Transit Dues.**

ARTICLE 5.

To facilitate mutual traffic, the following goods, if properly identified, may pass free of duty both ways :—(A) Goods (except provisions) sent from either country to fairs or markets, or on the chance of sale in the other ; also commercial traveller's samples, provided they are returned unsold within a predetermined time. (B) Cattle sent from either country to market in the other, and returned unsold. **Samples.**

FROM FINAL PROTOCOL *re* ARTICLE 5.

Goods sent from the country of one power to that of the other, to markets, fairs, on the chance of sale or otherwise, and returned within a predetermined time, shall remain subject to the existing regulations in each country This applies also to travellers' samples. **Markets and Fairs.**

Facilities shall also be mutually granted in the case of cattle sent across the frontier and returned unsold. For identification it will be sufficient to take note of the sex, colour and number of the cattle, and any other special features.

ARTICLE 6.

To facilitate frontier district traffic, the regulations specified in Appendix C. have been agreed upon. **Frontier Regulations.**

FROM FINAL PROTOCOL *re* ARTICLE 6.

1. The term " frontier district " shall apply to the existing areas so called, in which customs concessions on cross traffic are granted ; but in the event of any alteration, the zones shall not exceed a width of 10 kilometres each side of the frontier line, though exceptions to this rule may be established by mutual agreement between the chief administrative officials of any frontier district if found desirable. **Frontier District.**

2. Duty-free importation shall be reciprocally conceded (unless cancelled on account of abuses) to the following articles :—(A) Butter, natural or artificial, up to 2 kilos. [*Butter is omitted from this article of the new treaty.*] (B) Fresh or prepared meat, up to 2 kilos. (C) Flour or similar milling products from grain or pulse, also bread, up to 3 kilos.—provided they are for the consumption of frontier residents and are not sent by post. Either power may, however, restrict or withdraw the concessions mentioned in this paragraph (2) on giving six months' notice.

FROM FINAL PROTOCOL *re* ARTICLES 5, 6, AND 7.

The concessions here referred to shall be subject to the control defined in the agreement of 20th February, 1854, between Austria, Bavaria, Wurtemberg and Baden, which agreement is subject to modification in conformity with altered local conditions.

ARTICLE 7.

To facilitate the customs handling of goods, accompanied by waybills, the formalities of taking off the fastenings, replacing them with others and unpacking the goods, on crossing the frontier, shall be discontinued, so long as the convened requirements are fulfilled. **Frontier Customs' Regulations.**

FROM FINAL PROTOCOL *re* ARTICLE 7.

1. The facilities specified in this Article are subject to the following conditions :—(A) Goods presented for import and forwarding at the customs station must be accompanied by a weighbill and a customs certificate that they were placed under official seal at the point of departure. (B) This seal must be found intact on examination. (C) The declaration must be made in writing and in such form as to obviate the necessity for examination on account of insufficiency ; and everything must be done in such a manner as to preclude the suspicion of attempted evasion. If the seals are found intact, the unloading and reweighing of the goods may be dispensed with. **Customs' Facilities.**

2. In case of need in either country, carriers of goods may, on special request, be permitted the use of public warehouses.

ARTICLE 8.

Wherever possible, the neighbouring customs houses on both sides of the frontier shall be moved, so that the formalities on crossing the frontier may be gone through simultaneously on both sides. **Frontier Customs' Houses.**

FROM FINAL PROTOCOL *re* ARTICLE 8.

1. The existing coalition of frontier customs stations shall remain, though the arrangement may be terminated by six months' notice on either side. New arrangements of this character may be made between Austria and the German States concerned.

2. Wherever possible the functions of adjacent customs stations on the frontier shall be equalised, though exceptions may be made by the Governments concerned.

3. In connection with the transfer and functions of any frontier station moved into the dominions of the other power, the following principles have been settled :—(A) Any station so transferred shall retain its original designation, *plus* that of the new locality ; but newly-established stations take the name of the locality. (B) The barriers shall be painted in the colours of the country in which they are situated, but the office sign shall bear the arms and colours of the country to which it belongs. (C) The control of the office arrangements shall be vested in the chief territorial officer. (D) The Government of the territorial State shall arrange that the transferred officials are unhampered in the discharge of their duties, and that care is taken for the proper security of their official papers and monies. (E) Officials and employees in uniform visiting the other State in the discharge of their duties shall enjoy the same exemptions as the officials of that State in respect of pike, bridge and ferry tolls levied by the State. On the other hand, they can only claim exemption from communication dues levied by corporations, companies, communities or private persons, in so far as the existing tariffs allow. (F) It is expressly recognised that while these joint customs houses are provided to facilitate the simultaneous customs handling of goods, &c., the chief function of each part is to act as the outward station for its own State, and not to mix itself with the corresponding function of the other part. Exceptions to this may be allowed by mutual arrangement between the customs authorities in the event of press of traffic. (G) The existing agreements on the following points are maintained :—The adjustment of the relations of the officials and employees in the transferred customs houses ; the relations of the watching staff of the one power to the corresponding staff of the other ; the accommodation of the transferred officials, and the rent paid for same ; the expense of cleaning and heating the joint offices ; the construction, upkeep, lighting and opening of the barriers by the joint officials ; the rights and duties of the transferred officials, lodged by the other State, in respect of work on Sundays and holidays ; and the reciprocal free admission of official uniforms and fittings.

The examination, &c., of persons crossing the frontier will be performed by each power in accordance with its own regulations and with reference to the agreements made on this matter.

ARTICLE 9.

State or Local Taxes.

State or local imposts levied by either, on the production, preparation or consumption of home products, shall not be applied so as to bear more hardly on the similar products of the other country.

From Final Protocol *re* Article 9.

Beer and Wine Duties.

So long as Austria levies duty on the original gravity of imported German beer, the certificates issued on this point by German scientific institutions shall be accepted by Austrian and Hungarian officials, without any re-examination of the consignments, provided the tests have been made in accordance with the regulations agreed on, and unless any special reason exists for doubting the accuracy of the certificate. The officials of the entry station, however, have the right to take samples, from time to time, without delaying the consignment ; and such samples shall be marked for identification, and forwarded under seal to the head office in Vienna or Budapest, to be tested. If the test reveals any inaccuracy in the certificate the corresponding Ministry of Finance shall be notified at once.

Conversely, Austrian and Hungarian Wines, accompanied by proper certificates, shall be passed by the German Customs, with similar reservations.

The two powers shall agree on the names of the scientific institutions authorised to issue certificates, and on the wording of the latter and the methods of testing to be employed. In the event of abuse of these facilities, either power may terminate them by six months' notice.

ARTICLE 10.

Smuggling.

Mutual assistance shall be rendered in the detection and punishment of smuggling, and in upholding the laws made for that purpose, permission being given for supervisors to pursue smugglers into the other country, and to receive all necessary assistance from the local officials. Full particulars of this general regulation are given in Appendix D. In the case of frontier waters and sections of frontier where the territories of the contracting powers march with those of foreign States, the regulations as to mutual assistance in watching shall be upheld.

From Final Protocol *re* Article 10 and Customs Kartell.

The conditions, Nos. 1—12, to Article 10 and the Customs Kartell, follow here.

ARTICLE 11.

Shipping.

Ships of either power and their cargoes shall receive the same treatment as those under the national flag. This applies also to coasting vessels. The nationality of vessels shall be established according to the laws of their country. Reciprocal recognition of measurement certificates will be accorded on terms to be arranged.

From Final Protocol *re* Article 11.

Fisheries.

The national fishing industry of each State is unaffected by the conditions of the treaty.

The agreed equality of status of ships of the mercantile marine and their cargoes in the ports of either power does not apply :—(A) To subventions granted on shipbuilding, so far as they do not refer to exemption from port and customs dues. (B) To the privileges granted to yacht clubs belonging to third powers.

ARTICLE 12.

Harbour Dues and Damaged Vessels.

Ships of either power driven into ports of the other, through accident or need, shall be exempt from navigation or harbour dues, unless their stay is unduly prolonged or used for transacting business.

Sea-damaged or stranded goods discharged from ships of either power, shall, except for salvage dues, be exempt from dues levied by the other, unless they enter the country for consumption.

ARTICLE 13.

Internal Waterways.

Boats and their crews of either power shall be granted the same facilities as those of native origin in the internal waterways of the other, and pay only the same dues on vessel and cargo.

ARTICLE 14.

Equal Frontier Tolls, etc.

Subjects of either power shall be accorded the same rights and in return for the same dues, as natives, to the use of roadways, canals, locks, ferries, bridges and bridge openings, harbours, quays, marking and lighting fairways, pilotage, cranes and weighbridges, warehouses, lifeboats, salvage operations, and so forth so far as provided for public use, whether belonging to the State or private owners. Except in the case of lighthouse and pilotage dues, the charges shall only be leviable when the accommodation is used. Pike dues on cross-frontier roads must not be higher for cross-frontier traffic than on inland traffic for the same distance.

With regard to goods imported or conveyed in transit, and forwarded in river or canal boats belonging to private owners, who have granted special rates on certain home products at the request of the home government, neither power can guarantee the extension of such rates to the first-named goods.

ARTICLE 15.

Freight Rates and Modes of Despatch.

No discrimination in point of freight rates or despatching shall be made by the railways of either power against the goods of the other conveyed in transit or otherwise.

The rates for passenger and goods traffic between railway stations, both in the one country and with direct connection, shall be drawn up in the coinage of the country, even though the line used for traffic belongs, wholly or in part, to a system domiciled in the other country.

On branch lines and in so far as traffic between two adjoining stations on each side of the frontier, the coinage of the country in which the station at which the fares and rates are payable shall be legal tender (at current rate of exchange) for such fares and rates, even though they are not posted up in such coinage at the said station.

This regulation as to legal tender shall in no wise affect the covenants of the railway companies concerned, with regard to the settling of their accounts.

From Final Protocol *re* Article 15.

Discriminating Railway Rates.

It is agreed that no discriminating rates shall be made by either power in favour of home produce, conveyed on the same line and in the same direction as imported produce from the other country, except in the case of goods forwarded for public or charitable purposes. Any extra railway rates incurred under local or conventional tariffs or by interrupted conveyance shall, if required, be included in the through rates.

ARTICLE 16.

Railway Construction.

The two powers will render mutual assistance in matters of railway traffic, especially in the granting of through rates on passengers and goods as circumstances require.

From Final Protocol *re* Articles 16 and 18.

1. These conditions also apply when goods have to be transhipped owing to differences of railway gauge; and may also be granted, under supervision, in other cases where the difference between the points of departure and destination are so great as to necessitate transhipment on the way.

2. Postal packages in transit through either country, to or from the other, when carried according to regulations to be established, and accompanied by a postal document stating the number, contents and gross weight, shall be exempt from all declaration and examination, even when they have to be transhipped from one line to another. In the case of packages carried by the overland post, the contents need not be stated.

3. The foregoing exemption and that mentioned in Article 18, S. 2, do not apply when there is reason to suspect that evasions of duty are in question.

4. *The customs handling of goods conveyed by rail and on shipboard is regulated by the conditions specially agreed on for these purposes.*

ARTICLE 17.

International Railway Traffic.

The two powers agree to take means for preventing interruption or disarrangement of the railway traffic between the two countries.

They will do everything possible in the way of establishing connecting services for passengers and goods to meet the requirements of the trans-frontier traffic.

ARTICLE 18.

Sealed Railway Waggons.

Where direct railway connection across the frontier exists and the rolling stock can be transferred from one system to the other, goods in suitable closed trucks shall be exempt from examination at the frontier, on presentation of the waybill, and examined at a customs station in the interior. Goods for transit traffic either way, and packed in suitable closed trucks, shall be exempt from examination at internal and frontier customs stations, when declared as such by presentation of the waybill. This concession depends on the fulfilment of the condition that the railway company conveying the goods delivers them within a reasonable time and with the fastenings secure, at the clearing station. Should either power grant any additional concessions to third powers, with regard to clearing through the customs, such concessions shall also apply to the other power and be reciprocated by the latter.

ARTICLE 19.

Trading Rights of Individuals.

The subjects of either power shall be granted the same rights as natives in respect of the pursuit of commerce and the imposts on same, and shall enjoy the same treatment when visiting markets and fairs in the dominions of the other These conditions do not apply to hawkers and other itinerant traders.

Merchants and other business men giving proof of payment of the trade taxes, in their country of domicile, shall be exempt from similar dues when visiting the other country, personally or by their travellers, and accompanied by samples, for the purpose of buying or selling.

Natives of either country entering the other in pursuit of their calling as conductors of freight traffic, or as crews of vessels plying on river or sea, shall not be subject to any trading tax in the latter country.

Share companies and other industrial, commercial or financial associations, including insurance companies, domiciled in either country and established according to law, may pursue in the other country (in accordance with the conditions of the law of the land), their legal rights, especially as plaintiffs or defendants in law suits. How far such associations may acquire real and other property in the other country shall be determined by the law of that country ; and this also applies to permission to carry on business there. In any case they shall enjoy the same rights as any actually existing similar companies, subjects of any third power.

From Final Protocol *re* Article 19.

1. *In fixing the imposts on any kind of business or trade, the origin of the goods concerned in the same shall not influence the amounts imposed.*

1a. (1 in the old treaty.) The legitimation papers issued to permit the subjects of either State to trade at markets or fairs in the other country, shall be made out as in Appendix E. The issuing authorities are named below.

Passports.

2. Traders of either country visiting the other to sell or purchase goods, shall be exempt from impost in this particular if provided with legitimation papers issued by the officials of their own country, in the form given in Appendix F. The issuing authorities are the same as now empowered to issue passports. A small charge may be made for issuing these papers. To prevent mistakes and forgeries, the papers issued on both sides shall differ from passports in shape and colour ; and every year the colour shall be changed, the size being such as to allow the papers being conveniently carried in the pocket. Travellers provided with such papers may carry samples with them, but not merchandise ; nor may they transact business for other houses than are named in the papers. They must confine themselves entirely to seeking orders and making sales ; and must conform to the laws of the land.

Itinerant Traders.

3. *The trade of a carrier, in the sense of Article* 19, *s.* 4, *comprises the conveyance of goods and passengers by road (not by rail). The expression "trade tax" includes any impost on trade, as well as the taxation of the income derived from trade, whether these imposts are local or State taxes.*

A carrier plying his trade between places in the other country must pay the imposts current in that country, regard being had to the conventions existing for the prevention of double taxation. If he carries on any other business there, not inseparably connected with his occupation as a carrier, or acquires real property, he must pay the taxes prescribed by the law of the land.

In the case of a carrier by water, the fact that he conveys goods from his vessels to the railway or delivers them to the consignees, and vice versa, *shall not be considered as a separate business for taxation purposes ; nor can this interpretation be put on a permanent agreement with an independent forwarding agent for such conveyance.*

ARTICLE 20.

Consuls.

Reciprocal rights are granted to establish consuls in any ports or commercial centres where consuls of any third power are admitted, and these consuls shall, on both sides, enjoy the same rights, privileges and immunities as consuls of any third power.

With regard to the exemption of consuls from taxation, it is mutually agreed that this shall apply only to professional consuls, not subjects of the State wherein their functions are discharged, and not to any persons other than the diplomatic representatives of the contracting powers.

FROM FINAL PROTOCOL *re* ARTICLE 20.

The rights, privileges and immunities conceded to consuls shall not be greater on the one side than accorded on the other. **Rights of Consuls.**

ARTICLE 21.

Each power will instruct its consuls abroad to protect and assist subjects of the other power in places where the latter has no consular representative, in the same manner and on equally favourable terms as to subjects of the first power. **Consular Protection.**

FROM FINAL PROTOCOL *re* ARTICLES 20 AND 21.

The term "consul" comprises all persons entrusted with consular affairs. Either power whose subjects have been assisted by a consul of the other power, in accordance with Article 21, is engaged to repay the expenses and outlay on the same basis as would be done by the other power in the case of its own subjects.

ARTICLE 22.

Each power allows the other the right of sending officials to visit the customs stations to inspect the methods of doing business and watching the frontier, and will afford these officials every facility for pursuing their investigations. Reciprocal information will be given as to the accountancy and statistics of both customs services. **Inspection.**

FROM FINAL PROTOCOL *re* ARTICLE 22.

It is understood that the sending of officials to inspect the working of frontier customs houses, &c., applies solely to district officials and not to those of the central administration; and that though the choice of the stations to be inspected is left to the power sending the inspector, notice shall be given to the other power, naming the inspector and the station to which he is being sent.

ARTICLE 23.

The present treaty shall extend to any country or district entering into Customs Union with either power. **Area of Treaty.**

ARTICLE 23A.

Any differences of opinion as to the interpretation or application of the annexed tariffs or the supplementary conditions to these tariffs, or the application of the most-favoured-nation clause, shall be referred to arbitration if desired by either power. [*The composition of the arbitration tribunal is the same as in the Swiss and other treaties.*] *If desired, other differences arising out of the present treaty may also be subjected to arbitration.* **Arbitration.**

FROM FINAL PROTOCOL *re* ARTICLE 23A.

[*This clause deals with the sittings and procedure of the arbitration tribunal, the supply of accommodation and staff, and State assistance in obtaining the testimony of witnesses and experts, the provisions being identical with those in the other treaties.*]

ARTICLE 24.

The present treaty supersedes the existing one, and, together with the Cattle Disease Treaty, concluded this day, shall come into operation on 1st February, 1892, and remain in force until 31st December, 1903. **Term of Treaty.**

(The usual clause as to notice, and continuation of the treaty for one year after denunciation, was also given, but this is replaced by the following in the 1905 treaty:—)

This treaty prolongs the existing treaty of 6th December, 1891, with the modifications and additions now made, until 31st December, 1917. Each power, however, reserves the right of terminating the treaty on 31st December, 1915, by giving twelve months' notice. If notice is not given by twelve months before 31st December, 1917, the treaty shall continue in force until one year after it has been denounced by either power.

APPENDIX C.

THE FACILITATION OF FRONTIER TRAFFIC.

1. In properties intersected by the frontier, the cattle and implements necessary for sowing seed, gathering crops, and transporting the cattle from buildings, &c., on one side of the frontier, may be allowed to cross to and fro, without payment of duty, at the points most convenient to the occupier. **Frontier Traffic.**

2. Frontier residents renting or owning agricultural land on the other side of the frontier, or engaged in field work there, but near their residence, are exempted from duty in respect of seed for planting such land, and of the gathered produce or grain in the sheaf, as also of draught animals and agricultural implements for working the land.

According to local conditions and the kind of work to be done the frontier may also be crossed by bye-roads, provided the regulations be fulfilled and the return is on the same day.

3. Where local conditions require and permit, the following articles may pass the frontier both ways duty free, even on bye-roads:—Waste ashes for manure, common building sand and flints, stall manure, crude tinder, flax and hemp roots, grass, moss, rushes, straw and chaff, milk, emery and trivoli in lumps, turf and peat, beehives containing live bees.

[*In the new treaty, the reference to beehives is omitted, but firewood and coal are included.*]

4. Cattle going to or returning from pasture or for stall feeding are also exempt from duty both ways, provided they are identified, and the produce of such cattle—milk, butter, cheese, wool and young offspring, in quantities corresponding to the number of the cattle and duration of the pasturage.

Under suitable local conditions and regulations, exemption may be accorded in the case of cattle taken over the frontier by bye-ways for prolonged pasturage.

Exemption is also granted on salt, flour and bread taken across the frontier for their own consumption, by residents pursuing their calling on Alpine pastures during the pasturage season, the quantities allowed being fixed by the local customs officials on either side.

5. Cattle crossing the frontier temporarily for draught purposes, and agricultural implements under the same conditions, may be passed both ways duty free, when marked for identification.

[*In the new treaty this concession is extended to cattle sent across the frontier merely to be weighed, provided they are marked for identification.*]

6. Grain, oil seeds, hemp, flax, wood, tan, and similar agricultural products taken across the frontier to be ground, stamped, cut, or milled, and then returned are exempted from duty both ways.

When circumstances allow, the usual customs regulations may be modified locally, to afford greater security against evasion. The quantity of finished article furnished by any raw material shall be determined by joint customs action as occasion arises.

7. Exemption is also granted to sacks and vessels used for conveying agricultural products, *e.g.*, grain and other field produce, gypsum, lime, beverages or other liquids, and other articles comprised in frontier traffic, sent across the frontier full and returned empty by the same route.

8. The existing facilities with regard to the trans-frontier repair of articles used by the sender are retained.

[*In the new treaty this is extended to the dyeing of yarn and cloth, and to the extras used in tailoring.*]

9. Medicines obtained from cross-frontier druggists, on the prescription of an authorised practitioner, may pass duty free without authorisation by the customs. Simple medicinal preparations and drugs, duly labelled on the package, and allowed to be sold retail, are exempt, even if unaccompanied by a prescription.

10. Other existing facilities, formalities and control in frontier traffic shall remain in force.

11. *Curd and gypsum taken across the frontier for local consumption in Austria are admitted free; and the same concession is granted to onions and garlic carted from the Zittau district into the Bohemian frontier zone.*

Cranberries from the Austrian frontier zone are admitted free for consumption in the German frontier zone.

Both powers reserve the right to impose regulations on these facilities on their own side of the frontier.

APPENDICES E AND F.

The forms of legitimation papers for attendance at fairs and markets, and the trade-legitimation papers for commercial travellers (Appendices E and F respectively) remain unchanged.

THE TARIFF COMMISSION,

7, VICTORIA STREET, LONDON, S.W.

April 8th, 1905.

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END OF
TITLE